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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

JANE DOE 1, et al.,

Plaintiffs,

v.

ALEJANDRO N. MAYORKAS, et al.,

Defendants.

Case No. 5:18-cv-2349-BLF-VKD

NOTICE OF MOTION AND UNOPPOSED MOTION FOR FINAL APPROVAL OF CLASS SETTLEMENT

Date: January 27, 2022
Time: 9:00 a.m.
Place: Courtroom 3 (5th Floor)
Judge: Hon. Beth Labson Freeman

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NOTICE OF MOTION AND MOTION

PLEASE TAKE NOTICE THAT on January 27, 2022, at 9:00 am in the Courtroom of the Honorable Beth Labson Freeman, United States District Judge for the Northern District of California, San Jose Division, located at 280 South 1st Street, San Jose, California 95113, or as soon as the matter may be decided, Plaintiffs will and hereby do move the Court, pursuant to Federal Rule of Civil Procedure 23(e), to grant final approval of the proposed class-wide settlement agreement entered into by the parties on November 15, 2021, which was preliminarily approved by the Court on December 9, 2021 (ECF 474).

This unopposed Motion is based on this Notice of Motion and Motion, the supporting Memorandum of Points and Authorities, the Declaration of Keith L. Williams in Support of Unopposed Motion for Final Approval of Class Settlement ("Williams Declaration"), the Declaration of Kathryn Meyer in Support of Unopposed Motion for Final Approval of Class Settlement ("Meyer Declaration"), the Declaration of Mariko Hirose in Support of Unopposed Motion for Final Approval of Class Settlement ("Hirose Declaration"), the argument of counsel, and all papers and records on file in this matter.

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Pursuant to Federal Rule of Civil Procedure 23(e), Plaintiffs Does 6-8 and the Amended Claim 6 Class (collectively, "Plaintiffs" or the "Class") hereby seek final approval of the settlement reached with Defendants Alejandro N. Mayorkas, Tracy Renaud, Larry C. DeNayer, Antony Blinken, U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services ("USCIS") and U.S. Department of State ("Defendants") as reflected by the Joint Stipulation of Settlement and Release (the "Settlement Agreement"), attached to the Williams Declaration as Exhibit 1.

Plaintiffs and Defendants (collectively, the "Parties") executed the Settlement Agreement on November 15, 2021, after arm's-length negotiations and years of litigation, which have included extensive jurisdictional discovery disputes, multiple depositions, and briefing and oral argument related to dispositive motions. *See* Williams Decl. Ex. 1. Under the terms of the Settlement Agreement, Defendants have agreed to reopen and re-adjudicate the Lautenberg refugee applications of individual Class Members under a set of conditions that ensures the applications will be vetted under a legal and equitable process. *Id*. ¶ 6. Defendants have also agreed to pay Plaintiffs' request of $201,377.97 for attorneys' fees, plus costs and expenses of $12,427.65. *See id*. ¶ 8, Ex. 1. This Settlement Agreement resolves the sole remaining claim in this case, Claim 6 of the First Amended Complaint (ECF 405).[1]

On December 9, 2021, the Court granted preliminary approval of this settlement, ordered that notice be given to Claim 6 Plaintiff Class Members, and set a January 18, 2022 deadline to object to this settlement. ECF 474. As described in detail below, both Plaintiffs and Defendants disseminated notice to Claim 6 Plaintiff Class Members. No objections were received prior to

[1] Claims 1 through 4 of Plaintiffs' Complaint (ECF 1) were resolved by the Court's Order (1) Granting Plaintiffs' Motion for Class Certification; and (2) Granting Plaintiffs' Motion for Partial Summary Judgment (ECF 87). Plaintiffs Does 1 and 2 withdrew Claim 5 (ECF 116).

the January 18, 2022 deadline. As of the date of filing, Plaintiffs' counsel have not received any objections to the Settlement Agreement.

The Settlement Agreement meets the standards for final approval because it is fair, reasonable, adequate, and it satisfies the "*Churchill* factors" as outlined below. *See Churchill Vill., L.L.C. v. Gen. Elec.*, 361 F.3d 566, 575-76 (9th Cir. 2004). Accordingly, Plaintiffs respectfully request that the Court affirm its preliminary findings and grant final approval of the Parties' Settlement Agreement.

II. PROCEDURAL HISTORY

Plaintiffs filed an Amended Complaint in this matter on July 2, 2020, ECF 384, and Defendants filed a renewed Motion to Dismiss Plaintiffs' First Amended Complaint (ECF 397) on July 16, 2020. On March 15, 2021, after briefing and oral argument, the Court issued an Order Granting in Part and Denying in Part Defendants' Motion to Dismiss, holding that: (1) Plaintiffs have standing to pursue the Sixth Claim for Relief; (2) the challenged vetting policy changes at issue in the Sixth Claim for Relief are reviewable under the APA; (3) Defendants' decision to transfer vetting for Lautenberg-Specter applicants to the FBI Terrorist Task Force is not a final agency action; (4) the challenged policy and practice of denying all refugee applications with "not clear" vetting results is a final agency action; and (5) Plaintiffs have stated a claim regarding notice-and-comment rulemaking. ECF 443 ("Motion to Dismiss Order"). In its Motion to Dismiss Order, the Court ordered Defendants to file an answer within 30 days. *Id.*

Following the Court's Motion to Dismiss Order, the Parties entered into discussions regarding a potential settlement and sought a Stay of Defendants' Answer Deadline. ECF 444. The Court granted the Stay (ECF 445) and subsequently granted several additional extensions, all of which allowed the Parties to finalize all documents necessary to file for preliminary approval of the Settlement Agreement.

On November 15, 2021, the Parties executed the Joint Stipulation of Settlement and Release ("Settlement Agreement"), and Plaintiffs subsequently filed an unopposed Motion for Preliminary Approval of Settlement on November 18, 2021. ECF 463. On December 9, 2021, the Court granted Plaintiffs' Motion, preliminarily determining that the Parties' Settlement

Agreement and its terms fall within the range of reasonableness and the range of final approval. ECF 474. The Parties then performed a number of required tasks, as required by the Settlement Agreement and as outlined below.

First, Defendants took the following actions: (1) mailed the Class Notice to all Claim 6 Plaintiff Class Members, including U.S. ties, for whom Defendants have current mailing addresses; (2) emailed the Class Notice to all Claim 6 Plaintiff Class Members, including U.S. ties, for whom Defendants have current emailing addresses; (3) established an Online Portal in English and Farsi that allows individuals to enter their case number (IR-number) to determine if this Settlement Agreement applies to their case and how it affects their case processing, which is available at: https://www.uscis.gov/case-check-DoevMyorkas18-cv-2349; and (4) instructed Refugee Support Center – Austria ("RSC Austria") to post the Class Notice in a clearly accessible location at RSC Austria's Vienna, Austria office. Meyer Decl. ¶ 7.

Furthermore, Defendant Department of State: (1) instructed RSC-Austria to distribute the Class Notice to Claim 6 Class Members through the most appropriate method, which may include a phone call, text messages, email, local mail, or in-person appointment; (2) instructed all resettlement agencies that would provide resettlement services to Claim 6 Plaintiff Class Members admitted to the United States as refugees to have the relevant affiliates distribute the Class Notice through the most appropriate method to Claim 6 Plaintiff Class Members' U.S. ties, which may include a phone call, text message, email, local mail, or in-person appointment; and (3) instructed such resettlement agencies to post the Class Notice in a clearly accessible location at the relevant affiliates, if practicable, where Claim 6 Plaintiff Class Member cases have been submitted by U.S. ties. *Id.*

Lastly, Plaintiffs' counsel took the following actions: (1) established a Settlement Website in English and Farsi that includes the Class Notice, proposed Settlement Agreement, and Motion for Preliminary Approval at: http://refugeerights.org/vienna; (2) posted information in English and Farsi regarding the Class Notice and proposed Settlement Agreement, including a link to the Settlement Website, and to the International Refugee Assistance Project's social media accounts on Facebook, Twitter, and Instagram; (3) established the following email address

for Claim 6 Plaintiff Class Members to contact Plaintiffs' counsel with questions: vienna@refugeerights.org; (4) shared the Class Notice with third-party non-governmental organizations that are connected to the Iranian religious minority community, including in the United States and Austria; and (5) emailed the link to the Class Notice and Settlement Website to all Class Members, including U.S. ties, for whom Plaintiffs' counsel has current email addresses. *Id.* ¶ 4. Of the emails to Class Members, Plaintiffs' counsel received "undeliverable messages" from two (2) refugee applicant Class Members' email addresses. *Id.* ¶ 5. For one of those refugee applicants, Plaintiffs' counsel did not receive "undeliverable messages" from the refugee applicant's alternate email address or from their U.S. tie's email address. *Id.* For the other refugee applicant, Plaintiffs' counsel did not receive an undeliverable message from the U.S. tie email addresses. *Id.*

The deadline for Class Members to submit objections to the Settlement Agreement was January 18, 2022. As of the date of filing, Plaintiffs' counsel have not received any objections to, or comments on, the Settlement Agreement from the Class Members. *Id.* ¶ 6.

III. THE COURT SHOULD GRANT FINAL APPROVAL OF THE SETTLEMENT

A. Legal Standard

"The Ninth Circuit maintains a 'strong judicial policy' that favors the settlement of class actions." *Haralson v. U.S. Aviation Servs. Corp.*, 383 F. Supp. 3d 959, 966 (N.D. Cal. 2019) (quoting *Class Plaintiffs v. City of Seattle*, 955 F.2d 1268, 1276 (9th Cir. 1992)). During final approval, the court must determine whether the settlement is "fundamentally fair, reasonable and adequate." Fed. R. Civ. P. 23(e); *see also Officers for Just. v. Civil Serv. Comm'n, etc.*, 688 F.2d 615, 625 (9th Cir. 1982). To determine whether a settlement is fair, reasonable, and adequate, and thus deserving of final approval, courts in the Ninth Circuit typically consider the following "*Churchill*" factors:

(1) the strength of the plaintiff's case;
(2) the risk, expense, complexity, and likely duration of further litigation;
(3) the risk of maintaining class action status throughout the trial;
(4) the amount offered in settlement;
(5) the extent of discovery completed and the stage of the proceedings;
(6) the experience and views of counsel;
(7) the presence of a governmental participant;

(8) the reaction of the class members to the proposed settlement; and
(9) whether the settlement is a product of collusion among the parties.

Churchill, 361 F.3d at 575-76; *see also In re Bluetooth Headset Prods. Liab. Litig.*, 654 F.3d 935, 946 (9th Cir. 2011). "The relative degree of importance to be attached to any particular factor will depend upon and be dictated by the nature of the claim(s) advanced, the type(s) of relief sought, and the unique facts and circumstances presented by each individual case." *Officers for Justice*, 688 F.2d at 625. The inquiry "must be limited to the extent necessary to reach a reasoned judgment that the agreement is not the product of fraud or overreaching by, or collusion between, the negotiating parties, and that the settlement, taken as a whole, is fair, reasonable and adequate to all concerned." *Id.*; *see also Rodriguez v. West Publ'g Corp.*, 563 F.3d 948, 965 (9th Cir. 2009). "Ultimately, the [trial] court's determination is nothing more than 'an amalgam of delicate balancing, gross approximations and rough justice.'" *Officers for Justice*, 688 F.2d at 625.

B. The Proposed Settlement Is Fair, Reasonable, and Adequate

The Settlement Agreement in this case is fair, reasonable, and adequate, and should be approved by the Court because it provides Class Members with what they sought to gain through litigation, i.e., a clear and fair procedure for reopening and re-adjudicating their applications. As detailed below and consistent with the Northern District of California's Procedural Guidance for Class Action Settlements, the factors to be considered by the Court weigh heavily in favor of approval, because the Settlement Agreement adequately remedies the remaining claim alleged by Plaintiffs in this class action lawsuit, is preferred by all parties as opposed to a lengthy and uncertain litigation, and was agreed to by the relevant governmental participants.

1. **Strength of Plaintiffs' Case**

Plaintiffs assert that if the litigation were to proceed, their claims are indeed strong. Surviving a motion to dismiss following the amount of discovery that the Parties have undergone is no small task. Further, the strength of the Class Members' claims was indicated by the Court's Order that denied, in large part, Defendants' Motion to Dismiss Plaintiffs' First Amended Complaint (ECF 397). ECF 443; *see also J.L. v. Cuccinelli*, No. 18-cv-04914-NC, 2019 WL 6911973, at *3 (N.D. Cal. Dec. 18, 2019) (finding that "Plaintiffs' case was strong, as

demonstrated by their success on the motion[] for . . . class certification, and dismissal."). The Settlement Agreement provides everything the Plaintiffs would hope to gain at trial, allowing for the reopening and re-adjudication of their applications under lawful vetting standards, with hopes of meaningfully opening the door to continuing their journey to the United States to reunite with loved ones and family members.

2. The Risk, Expense, Complexity, and Likely Duration of Further Litigation

"The second factor considers 'the risk of continued litigation balanced against the certainty and immediacy of recovery from the Settlement.'" *Kim v. Space Pencil, Inc.*, No. C 11- 03796 LB, 2012 WL 5948951, at *5 (N.D. Cal. Nov. 28, 2012) (quoting *In re Omnivision Techs., Inc.*, 559 F. Supp. 2d 1036, 1041 (N.D. Cal. 2008)). In general, "unless the settlement is clearly inadequate, its acceptance and approval are preferable to lengthy and expensive litigation with uncertain results." *Ching v. Siemens Indus., Inc.*, No. 11-cv-04838-MEJ, 2014 WL 2926210, at *4 (N.D. Cal. June 27, 2014). Despite the strength of Plaintiffs' case, more fulsome discovery would be required if the case were to proceed to trial, requiring both parties to expend considerable resources on electronic discovery, depositions, and expert witnesses. And here, "[a] great deal of that expense would have been borne by the taxpayers." *See San Francisco NAACP v. San Francisco Unified Sch. Dist.*, 59 F. Supp. 2d 1021, 1030 (N.D. Cal. 1999). Moreover, Plaintiffs recognize the impact a delay could have on Class Members. *See Cuccinelli*, 2019 WL 6911973, at *3 ("In addition, the high complexity, expense, and likely duration of the lawsuit further weighs in favor of . . . approval."). The weight of Class Members' interest in expediency obtained through this Settlement Agreement, especially when balanced against the length, expense, and uncertainty of trial and post-trial proceedings, weighs in favor of approval. *See Rodriguez*, 563 F.3d at 966 ("Inevitable appeals would likely prolong the litigation, and any recovery by class members, for years. This factor, too, favors the settlement."); *Nat'l Rural Telecomms. Coop. v. DIRECTV, Inc.*, 221 F.R.D. 523, 526 (C.D. Cal. 2004) ("The Court shall consider the vagaries of litigation and compare the significance of

immediate recovery by way of the compromise to the mere possibility of relief in the future, after protracted and expensive litigation.") (citation omitted).

3. **The Risk of Maintaining Class Action Status Throughout Trial**

"The avoidance of risk of maintaining class action certification throughout trial favors settlement of this action." *Catala v. Resurgent Cap. Servs. L.P.*, No. 08-cv-2401 NLS, 2010 WL 2524158, at *3 (S.D. Cal. June 22, 2010). Although the class has been certified, and the Court has approved amending the class certification order, there remains a risk that the Class Members' status may change. *See* ECF 87, 389. "Although a class can be certified for settlement purposes, the notion that a district court could decertify a class at any time is an inescapable and weighty risk that weighs in favor of a settlement." *In re LinkedIn User Priv. Litig.*, 309 F.R.D. 573, 587 (N.D. Cal. 2015); *see also Rodriguez*, 563 F.3d at 966. Here, Defendants have already reopened, re-adjudicated, and approved two Class Members' applications in line with paragraph 3(a) of the Settlement Agreement. Meyer Decl. ¶ 7(h). This could present a risk to maintaining class certification status should litigation continue.

4. **Amount Offered in Settlement**

The amount of recovery offered "is generally considered the most important [factor], because the critical component of any settlement is the amount of relief obtained by the class." *Moreno v. San Francisco Bay Area Rapid Transit Dist.*, No. 17-cv-02911-JSC, 2019 WL 343472, at *4 (N.D. Cal. Jan. 28, 2019). Monetary relief is not necessary to approve the settlement where injunctive relief was sought. *See*, *e.g.*, *id.* (granting approval where the class was "only certified for injunctive relief" and defendant "agreed to significant injunctive relief"); *Stathakos v. Columbia Sportswear USA Corp.*, No. 4:15-cv-04543-YGR, 2018 WL 582564, at *3 (N.D. Cal. Jan. 25, 2018) (granting final approval where injunctive relief was obtained); *Kim*, 2012 WL 5948951, at *6 (granting final approval where the settlement "does not include monetary relief for the class, [but] it stops the allegedly unlawful practices, bars Defendant from similar practices in the future, and does not prevent the class members from seeking legal recourse.")

Here, the Settlement Agreement secures the essential relief Plaintiffs sought to accomplish in this litigation. *See e.g.*, ECF 384, First Am. Compl. at 39, Prayer for Relief ("Set aside as unlawful the program changes that resulted in the mass denials and any subsequent agency actions that relied on such unlawful program changes[.]"). The Settlement Agreement provides Class Members with a clear and fair procedure for re-opening and re-adjudicating their applications under lawful vetting standards and includes policy changes to the adjudication process for Lautenberg refugee applications, while also providing protection in the form of reporting, status update requirements, and consultation obligations for Defendants that allow Plaintiffs' counsel to ensure that the Settlement Agreement is proceeding as intended and that the Class Members' interests are being served. Williams Decl. ¶ 6. Again, Class Members' primary interest is in seeing the procedure detailed in the Settlement Agreement commence and conclude as soon as is feasible. The Settlement Agreement serves this interest and more by avoiding the time and expense of further litigation and results in a benefit to the public as a whole.

5. **The Extent of Discovery Completed and the Stage of the Proceedings**

The parties engaged in motion practice and discovery that informed their decision regarding the sufficiency of the Settlement Agreement. *See In re Omnivision*, 559 F. Supp. 2d at 1042 (finding the parties were sufficiently informed about the case prior to settling because they engaged in discovery, took depositions, briefed motions, and participated in mediation). This case has been vigorously litigated since Plaintiffs filed the initial complaint nearly four years ago, on April 18, 2018. ECF 1. As a result of prolonged jurisdictional discovery, Defendants turned over numerous documents and Plaintiffs conducted 30(b)(6) depositions of key witnesses at relevant government agencies. *See*, *e.g.*, ECF 180, 251, 254, 397-2. Moreover, the motion practice in this case has been especially extensive, and has included motion for class certification, motion for partial summary judgment, and a motion to dismiss. ECF 20, 25, 87, 389, 443. Consequently, in the course of resolving this litigation, Plaintiffs' "[c]ounsel in this matter is thoroughly familiar with the facts of this case and was therefore able to help Plaintiffs make an informed decision regarding the merits of the Settlement." *In re Omnivision*, 559 F.

Supp. 2d at 1042. This factor weighs in favor of entering an order of final approval for the Settlement Agreement.

6. **Counsel Is Experienced and Recommends Settlement**

"The recommendations of plaintiffs' counsel should be given a presumption of reasonableness." *Id.* at 1043 (citation omitted); *In re Pac. Enters. Sec. Litig.*, 47 F.3d 373, 378 (9th Cir. 1995) ("Parties represented by competent counsel are better positioned than courts to produce a settlement that fairly reflects each party's expected outcome in litigation."). Plaintiffs' counsel at the International Refugee Assistance Project ("IRAP") have extensive class action experience, particularly with respect to representing refugees, asylum seekers, and other people in need of humanitarian relief. *See* ECF 22 ¶ 2, 4. One of Plaintiffs' lead-counsel, Mariko Hirose, is the founder of IRAP's litigation department and currently serves as its Litigation Director. *Id.* ¶ 1, 3. Plaintiffs are additionally represented by Latham & Watkins ("Latham"). Latham Partner Belinda Lee, also one of Plaintiffs' lead-counsel, is Vice-Chair of Latham's Antitrust and Competition Practice Group, and has extensive experience litigating class action lawsuits to settlement in state and federal courts around the country. *See* ECF 21 ¶ 3.

Based on their experience in similar cases, and their familiarity with the strengths and weaknesses of this particular case, Plaintiffs' counsel believes the proposed Settlement Agreement to be in the best interests of the class and respectfully request that the Court approve it.

7. **The Government Is a Party to This Action**

Here, Defendants—Alejandro N. Mayorkas, Tracy Renaud, Larry C. DeNayer, Antony Blinken, U.S. Department of Homeland Security, and U.S. Department of State—are federal officers and federal agencies who participated in settlement discussions by and through their counsel at the U.S. Department of Justice and agreed to the terms of the Settlement Agreement. This heavily weighs in favor of final approval. *See Marshall v. Holiday Magic, Inc.*, 550 F.2d 1173, 1178 (9th Cir. 1977) ("The participation of a government agency serves to protect the interests of the class members, particularly absentees, and approval by the agency is an important factor for the court's consideration."); *see also Criswell v. Boudreaux*, No. 120-cv-01048-DAD-

SAB, 2021 WL 5811887, at *7 (E.D. Cal. Dec. 7, 2021) ("[D]efendant is a governmental participant, which weighs in favor of final approval of the settlement."); *Moreno*, 2019 WL 343472, at *5 ("BART is a governmental agency, and as such, its participation and consent to the injunctive relief weighs in favor of approving the settlement."); *Garcia v. Los Angeles Cnty. Sheriff's Dep't*, No. CV 09-8943 MMM (SHx), 2015 WL 13646906, at *11 (C.D. Cal. Sept. 14, 2015) (concluding that because defendant county office of education was a government participant, consideration of this factor weighed in favor of settlement); *San Francisco NAACP*, 59 F. Supp. 2d at 1031 (concluding that the fact that "[t]he State and Local Defendants are all governmental participants" weighs strongly in favor of granting approval). Thus, analysis of this factor weighs in favor of an order granting final approval of the Settlement Agreement.

8. **The Reaction of Class Members Is Positive**

The Class Members' reactions to the settlement were overwhelmingly positive, and, as of the date of this filing, no Class Member objected to the Settlement Agreement. Meyer Decl. ¶ 6. Again, this factor favors final approval. *See In re Anthem, Inc. Data Breach Litig.,* 327 F.R.D. 299, 321 (N.D. Cal. 2018) ("[T]he positive response from the Class favors approval of the Settlement."); *In re LinkedIn*, 309 F.R.D. at 589 ("A low number of opt-outs and objections in comparison to class size is typically a factor that supports settlement approval."); *Der-Hacopian v. Darktrace, Inc*., No. 18-cv-06726-HSG, 2020 WL 7260054, at *6 (N.D. Cal. Dec. 10, 2020) ("'[T]he absence of a large number of objections to a proposed class action settlement raises a strong presumption that the terms of a proposed class settlement action are favorable to the class members.'" (citation omitted)).

9. **The Settlement Agreement Is Not a Product of Collusion**

As the Settlement was negotiated and agreed to after Plaintiffs' motion for class certification was granted, this factor need not be considered. *See* ECF 87, 389; *In re Bluetooth*, 654 F.3d at 946-47. Even so, the Parties engaged in arm's-length settlement discussions for months before executing the Settlement Agreement. *See* Williams Decl. ¶ 3. Settlement discussions were extensive and involved the Parties' experienced counsel advocating strongly for the interests of their clients. *See id*. The Settlement Agreement itself has been subject to

multiple rounds of edits to its terms in an effort to ensure relief to the fullest extent possible to Class Members. *See id*. ¶ 3-4.

* * *

All of the above mentioned *Churchill* factors weigh in favor of approving the final settlement.

IV. THE COURT SHOULD GRANT PLAINTIFFS' COUNSEL'S REQUEST FOR ATTORNEYS' FEES AND COSTS

A. Plaintiffs' Attorneys' Fees Are Justified by the Lodestar Method

The attorneys' fees that Defendants have agreed to pay are justified under the lodestar method. "[A] court must ensure that attorney's fees and costs awarded to class counsel are 'fair, reasonable, and adequate.'" *Briggs v. United States*, No. C 0705760 WHA, 2010 WL 1759457, at *4 (N.D. Cal. Apr. 30, 2010) (citations omitted). In "injunctive relief class actions, courts often use a lodestar calculation because there is no way to gauge the net value of the settlement or any percentage thereof." *Hanlon v. Chrysler Corp*., 150 F.3d 1011, 1029 (9th Cir. 1998); *see also Lilly v. Jamba Juice Co*., No. 13-cv-02998-JST, 2015 WL 2062858, at *5 (N.D. Cal. May 4, 2015) ("Because the settlement resulted in injunctive relief, the lodestar method is the appropriate measure for calculating attorneys' fees."). The lodestar method requires "multiplying the number of hours [class counsel] . . . reasonably expended on the litigation by a reasonable hourly rate" for the region and for the experience of the lawyer. *Staton v. Boeing Co*., 327 F.3d 938, 965 (9th Cir. 2003).

Here, Defendants agreed to pay Plaintiffs' reasonable claim for fees of $201,377.97. To calculate the fees, Plaintiffs' counsel applied the rate prescribed by the United States Attorney's Office for the District of Columbia Fees Matrix to the number of hours worked according to the attorney's number of years after graduation from law school. Hirose Decl. ¶ 5. A table summarizing this analysis is included below for ease of reference:

Name	Class Year	Rate	Total Hours	Total
Kate Meyer	2016	380	217.78	82,757.67
Mariko Hirose	2008	532	142.33	75,721.33
Mel Keaney	2009	532	64.22	34,163.27
Yael Ben Tov*	2020	333	26.23	8,735.70
Total				**201,377.97**

Id. ¶ 6. Moreover, Plaintiffs' counsel exercised billing judgment, so the number of hours billed to Defendants as a result of this process was far fewer than the actual hours that IRAP staff worked on the litigation. *Id.* ¶ 4. Further, Plaintiffs' counsel decided to waive seeking fees for the attorneys at Latham completely. Williams Decl. ¶ 7. Thus, the agreed-upon fees are reasonable under the lodestar methodology.

B. Costs Are Recoverable Under 28 U.S.C. § 1920

An attorney is also entitled to "recover as part of the award of attorney's fees those out-of-pocket expenses that would 'normally be charged to a fee paying client.'" *Harris v. Marhoefer*, 24 F.3d 16, 19 (9th Cir. 1994) (citation omitted). Under the Equal Access to Justice Act ("EAJA"), "a judgment for costs, as enumerated in section 1920 of this title . . . may be awarded to the prevailing party in any civil action brought by or against the Unites States or an agency or any official of the United States acting in his or her official capacity." 28 U.S.C. § 2412(a)(1); *see also* 5 U.S.C. § 504 *et seq*. 28 U.S.C. § 1920 allows for the recovery of costs for "fees of the clerk and marshal," "[f]ees for electronically recorded transcripts necessarily obtained for use in the case," "[f]ees and disbursements for printing and witnesses," "the costs of making [necessary] copies," "[d]ocket fees," and "compensation for interpreters."

Here, Defendants have agreed to pay costs and expenses of $12,427.65. Williams Decl. ¶ 8. Although entitled to reimbursement of additional taxable costs, Plaintiffs' counsel only seek to recover costs prescribed under 28 U.S.C. § 1920 for binding, court costs, filing fees, scanning, transcripts, and translation services. *Id.* The agreed-upon costs are reasonable and should be awarded.

V. CONCLUSION

Plaintiffs respectfully request that the Court grant this unopposed Motion for Final Approval of Class Settlement.

DATED: January 25, 2022

Respectfully submitted,

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INTERNATIONAL REFUGEE ASSISTANCE PROJECT

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Attorneys for Plaintiffs Does 1-4, 6-8 and the Amended Claim 6 Class

ATTESTATION

Pursuant to Civil Local Rule 5-1(h)(3), I attest that concurrence in the filing of this document has been obtained from each of the signatories hereto.

DATED: January 25, 2022

/s/ Belinda S Lee
Belinda S Lee